

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

PROASSURANCE CASUALTY
COMPANY, an Alabama
corporation

Plaintiff,

v.

Case No: 2:19-cv-892-FtM-38NPM

ASIF CHOUDHURRY and ASIF
CHOUDHURRY, M.D., P.A.,

Defendants.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Nicholas P. Mizell's Report and Recommendation. ([Doc. 24](#)). Judge Mizell recommends granting Plaintiff's Second Motion for Default Judgment and entering a declaratory judgment with certain findings. ([Doc. 24](#)). Neither party objects to the Report and Recommendation, and the time to do so has expired.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those

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portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently and upon considering Judge Mizell’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

1. United States Magistrate Judge Nicholas P. Mizell’s Report and Recommendation ([Doc. 24](#)) is **ACCEPTED and ADOPTED** and the findings are incorporated herein.
2. Plaintiff’s Second Motion for Default Judgment ([Doc. 23](#)) is **GRANTED**.
3. The Clerk of Court is **DIRECTED** to enter default judgment in favor of Plaintiff Proassurance Casualty Company and against Defendants Asif Choudhurry and Asif Choudhurry, P.A.
4. Declaratory judgment is entered that makes the following declaratory findings:


In regard to the lawsuit filed by Vicki Quinn and Thomas Quinn in the Circuit Court of the 20th Judicial Circuit, in and for Lee County, Florida, Case No18- CA-000377; and the lawsuit filed by Darlene Niemeyer in the

Circuit Court of the 20th Judicial Circuit, in and for Lee County, Florida,
Case No. 18-CA000359:

(1) ProAssurance Casualty Company has no duty under Insurance Policy No. MP52165 to indemnify Asif Choudhurry and Asif Choudhurry, P.A., or any other person or entity.

(2) ProAssurance Casualty Company has no duty under Insurance Policy No. MP52165 to defend Asif Choudhurry and Asif Choudhurry, P.A., or any other person or entity beyond the maximum of \$100,000.00 in costs, expenses, and attorney fees for all such claims first reported during the policy period, until such time as the insured is adjudicated to have committed, or pleads guilty to, an act or omission arising out of fraudulent, criminal, malicious, or intentionally wrongful act or omission, including but not limited to liability arising in whole or in part out of sexual activity, or acts in furtherance of sexual activity, whether under the guise of professional services or not.

DONE and **ORDERED** in Fort Myers, Florida on January 5, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record